



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[EPA-HQ-OAR-2011-0776; FRL-9651-2]

RIN- 2060-AR20

Protection of Stratospheric Ozone: Amendment to HFO-1234yf SNAP Rule for Motor Vehicle Air Conditioning Sector

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Rulemaking

SUMMARY: The Environmental Protection Agency (EPA) is proposing to revise one of the use conditions required for use of hydrofluoroolefin (HFO)-1234yf (2,3,3,3-tetrafluoroprop-1-ene), a substitute for ozone-depleting substances (ODSs) in the motor vehicle air conditioning end-use within the refrigeration and air conditioning sector, as acceptable subject to use conditions under the EPA's Significant New Alternatives Policy (SNAP) program. The revised use condition incorporates by reference a revised standard from SAE International. In the "Rules and Regulations" section of this Federal Register, we are revising a use condition for use of HFO-1234yf in motor vehicle air conditioning as a direct final rule without a prior proposed rule. If we receive no adverse comment, we will not take further action on this proposed rule.

DATES: Written comments must be received by **[Insert 30 days from publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2011-0776 by mail to OAR Docket and Information Center, U.S. Environmental Protection Agency, Mailcode 6102T, 1200 Pennsylvania Ave., N.W., Washington, DC 20460.

Comments may also be submitted electronically or through hand delivery/courier by following

the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this Federal Register.

FOR FURTHER INFORMATION CONTACT: Margaret Sheppard, Stratospheric Protection Division, Office of Atmospheric Programs; Environmental Protection Agency, Mail Code 6205J, 1200 Pennsylvania Avenue N.W., Washington DC 20460; telephone number (202)343-9163, fax number, (202)343-2338; e-mail address at sheppard.margaret@epa.gov. The published versions of notices and rulemakings under the SNAP program are available on EPA's Stratospheric Ozone Web site at <http://www.epa.gov/ozone/snap/regs>. The full list of SNAP decisions in all industrial sectors is available at <http://www.epa.gov/ozone/snap>.

SUPPLEMENTARY INFORMATION:

I. Why is EPA Issuing This Proposed Rule?

This action proposes revising a use condition for the refrigerant HFO-1234yf in motor vehicle air conditioning under EPA's Significant New Alternatives Policy (SNAP) program. This action would incorporate by reference an updated edition of a standard from SAE International and clarifying the scope of the use condition. We have published a direct final rule which revises a condition for use of HFO-1234yf in motor vehicle air conditioning in the "Rules and Regulations" section of this Federal Register because we view this as a noncontroversial action and anticipate no adverse comment. We have explained our reasons for this action in the preamble to the direct final rule.

If we receive no adverse comment and no requests for public hearings in response to this action, we will not take further action on this proposed rule. If we receive adverse comment, we will withdraw the direct final rule and it will not take effect. We would address all public comments in any subsequent final rule based on this proposed rule. If a public hearing is requested, EPA will provide notice in the Federal Register as to the location, date, and time.

We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information, please see the information provided in the **ADDRESSES** section of this document.

II. Does this Action Apply to Me?

This notice of proposed rulemaking (NPRM) would regulate the use of HFO-1234yf (2,3,3,3-tetrafluoroprop-1-ene, Chemical Abstracts Service Registry Number [CAS Reg. No.] 754-12-1) as a refrigerant in new motor vehicle air conditioning (MVAC) systems in new passenger cars and light-duty trucks. Businesses in this end-use that might want to use HFO-1234yf in new MVAC systems in the future include:

- automobile manufacturers
- automobile repair shops

Regulated entities may include:

Table 1–Potentially Regulated Entities,

by North American Industrial Classification System (NAICS) Code

Category	NAICS code	Description of regulated entities
Industry	336111	Automobile Manufacturing
Services	811111	General Automotive Repair

This table is not intended to be exhaustive, but rather a guide regarding entities likely to be regulated by this action. If you have any questions about whether this action applies to a particular entity, consult the person listed in the preceding section, “FOR FURTHER INFORMATION CONTACT.”

III. What is EPA Proposing?

EPA is proposing to revise one of the use conditions required for use of

hydrofluoroolefin (HFO) -1234yf (2,3,3,3-tetrafluoroprop-1-ene), a substitute for ozone-depleting substances (ODSs) in the motor vehicle air conditioning end-use under EPA's Significant New Alternatives Policy (SNAP) program. In March 2011, EPA listed HFO-1234yf as acceptable, subject to use conditions, for use in motor vehicle air conditioning (MVAC) systems in new passenger cars and light-duty trucks (March 29, 2011; 76 FR 17488). We are revising the use condition that incorporated by reference the February 2011 edition of SAE International's¹ (herein after, SAE) J2844 standard for connections with refrigerant containers. We are revising this use condition to incorporate by reference an updated edition of the standard, and we also are clarifying the scope of that use condition. This action does not place any significant burden on the regulated community and ensures consistency with industry standards. The direct final rule will be effective on **[insert date 60 days from date of publication in the Federal Register]** without further notice unless we receive adverse comment (or a request for a public hearing) by **[insert date 30 days from date of publication in the Federal Register]**. If EPA receives adverse comment or a request for a public hearing, we will publish a timely withdrawal in the Federal Register informing the public that all or part of this rule will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule. We will not institute a second public comment period on this action. Any parties interested in commenting must do so at this time.

You may claim that information in your comments is confidential business information, as allowed by 40 CFR part 2. If you submit comments and include information that you claim as confidential business information, we request that you submit them directly to Margaret Sheppard in two versions: one clearly marked "Public" to be filed in the public docket, and the other marked "Confidential" to be reviewed by authorized government personnel only.

¹ Formerly, the Society of Automotive Engineers.

IV. Statutory and Executive Order Reviews

A. *Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review*

This action is not a "significant regulatory action" under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

B. *Paperwork Reduction Act*

This action does not impose any new information collection burden. It contains no new requirements for reporting. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations in subpart G of 40 CFR part 82 under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. and has assigned OMB control numbers 2060-0226 (EPA ICR No. 1596.08). This Information Collection Request (ICR) included five types of respondent reporting and recordkeeping activities pursuant to SNAP regulations: submission of a SNAP petition, filing a SNAP/TSCA Addendum, notification for test marketing activity, recordkeeping for substitutes acceptable subject to use restrictions, and recordkeeping for small volume uses. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9.

C. *Regulatory Flexibility Act (RFA)*

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statutes unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in

connection with this proposed rule because this rule will not have a significant economic impact on a substantial number of small entities. For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; for NAICS code 336111 (Automobile manufacturing), a small business has <1000 employees; and for NAICS code 811111 (General Automotive Repair), a small business has annual receipts of less than \$7.0 million; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. This rule will not impose any requirements on small entities beyond current industry practices. Today's action effectively ensures consistency with current industry practices and standards, whereas without these revisions, small businesses would need to reconcile differences between EPA regulations and industry standards.

It is not clear that there would be any cost differential between these new unique fittings, those used with the current automotive refrigerant, HFC-134a, or other fittings that the automotive industry could adopt instead. It is possible that the fittings required in the revised use condition will be less expensive because they are a standard shape and size easily produced in a metal-working shop. Thus, cost impacts of this proposed rule on small entities are expected to be small. This proposed rule is expected to relieve burden for some small entities, such as automotive repair shops, by avoiding confusion over which fittings to use and by using a more robust fitting that allows quick detection of any leaks from the valve.

Although this proposed rule will not have a significant economic impact on a substantial number of small entities, EPA nonetheless has tried to reduce the impact of this rule on small entities. EPA has worked together with SAE International and with groups representing professional service technicians such as the Mobile Air Conditioning Society Worldwide, which conducts regular outreach with technicians and owners of small businesses such as retail refrigerant suppliers and automobile repair shops.

D. *Unfunded Mandates Reform Act*

This rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. This final rule will not impose any requirements beyond current industry practices, and thus, compliance costs are expected to be small. Thus, this rule is not subject to the requirements of sections 202 or 205 of UMRA.

This rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. The requirements of this rule apply to the servicing of motor vehicle air conditioning systems. The requirements of this rule for unique fittings are expected to be comparable in cost to those of current fittings. Requirements would be the same as those imposed on any other entity performing servicing on motor vehicle air conditioning systems.

E. *Executive Order 13132: Federalism*

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This regulation applies directly to facilities that use these

substances and not to governmental entities. Thus, Executive Order 13132 does not apply to this rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed action from State and local officials.

F. *Executive Order 13175: Consultation and Coordination with Indian Tribal Governments*

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). It does not significantly or uniquely affect the communities of Indian tribal governments, because this regulation applies directly to facilities that use these substances and not to governmental entities. Thus, Executive Order 13175 does not apply to this action.

EPA specifically solicits additional comment on this proposed action from tribal officials.

G. *Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks*

Executive Order 13045: "Protection of Children from Environmental Health Risks and Safety Risks" (62 F.R. 19885, April 23, 1997) applies to any rule that: (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This proposed rule is not economically significant as defined in Executive Order 12866, and the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action concerns only use of a specific fitting that may reduce technician's exposure in the course of professional servicing of MVAC systems. Therefore, we did not conduct further health or risk assessments beyond those in the original rulemaking (March 29, 2011; 76 FR 17488). This rule is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866 and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

The public is invited to submit comments or identify peer-reviewed studies and data that assess effects of early life exposure to HFO-1234yf.

H. *Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

I. *National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law No. 104-113, Section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rulemaking involves technical standards. EPA proposes to use SAE International's most recent version of the SAE J2844 standard, "R-1234yf (HFO-1234yf) New Refrigerant Purity and Container Requirements for Use in Mobile Air-Conditioning Systems." This standard can be obtained from <http://www.sae.org/technical/standards/>. This standard addresses, among other things, appropriate fittings and other requirements for refrigerant containers for use for professional servicing of MVAC systems using the alternative refrigerant HFO-1234yf.

EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

J. *Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This final rule requires specific use conditions for unique fittings for use with refrigerant containers for professional servicing of MVAC systems, for those servicing MVAC systems using this low global warming potential refrigerant alternative. It does not directly affect the amount of exposure to or emissions of HFO-1234yf expected.

List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements, Stratospheric ozone layer.

Dated: March 15, 2012.

Lisa P. Jackson,
Administrator

[FR Doc. 2012-6918 Filed 03/22/2012 at 8:45 am; Publication Date: 03/23/2012]